IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

Crl.MC.No. 673 of 2007()

AGAINST THE ORDER IN LPC. 17/2005 IN
CP.295/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, KANNUR
CRIME NO.55/2002 OF S.H.O IRIKKUR POLICE STATION

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PETITIONER/2ND ACCUSED:

MR.HABEEB.K, S/O.K.IBRAHIM,
CHULIYADU, IRRIKKUR, KANNUR DIST.

BY ADV. SRI.C.K.SREEJITH

RESPONDENT:

S.H.O.IRRIKKUR POLICE STATION,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.673 of 2007

Dated this the 13th day of March, 2007

ORDER

The petitioner is the 12th accused in a prosecution, inter alia, under Section 302 I.P.C. The petitioner was not available for trial and the case against him has hence been transferred to the list of Long Pending Cases. The co-accused have already appeared and have been committed to the Court of Sessions.

2. The petitioner is willing to appear before the learned Magistrate now, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously because of his earlier failure/omission to appear. In these circumstances, it is prayed that directions may be issued to the learned Magistrate under Section 482 Cr.P.C to release the petitioner on bail when he appears and applies for bail.

3. I am not satisfied that any circumstance exists justifying the invocation of the jurisdiction under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously.

Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling and exceptional reasons. When the petitioner enters appearance, the learned Magistrate must forthwith commit the case to the Court of Sessions, so that the Court of Sessions can, if possible, avoid a separate trial for the petitioner and consolidated charges can be framed against all the accused on the basis of the different orders of committal.

(R.BASANT, JUDGE)

rtr/-

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PA to Judge